THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6431 of 2004

12.12.2007

Between:

Upputuri Venkata Subbaiah, S/o.Laxmaiah
And others

…Petitioners

And

The District Collector, Prakasam District
And others

…Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.6431 of 2004

ORDER:

Petitioners herein challenged notification under Section 4(1) of the Land Acquisition Act, 1894 (the Act, for brevity) and declaration under Section 6 of the Act, as illegal and arbitrary.

Petitioners allegedly purchased small extents of house sites in suvey Nos.314, 315 and 316 situated at Throvagunta village in Prakasam District under registered sale deeds. They wanted to construct residential houses but could not do so due to financial constraints. First respondent issued notification under Section 4(1) of the Act and published the same in Vaartha Telugu daily dated 24.2.2004. It was proposed to acquire an extent of Acs.30.22 for the purpose of expansion of Autonagar in Ongole. Before issuing declaration under Section 6 of the Act, enquiry under Section 5-A of the Act was dispensed with. Challenge to the land acquisition is mainly on the ground that District Collector has no power to acquire the property of petitioners for the purpose of providing land for Autonagar and that District Collector cannot dispense with enquiry under Section 5-A of the Act.

Respondents filed counter affidavit opposing the writ petition. It is stated that as M/s.Upputuri Venkata Subbaiah and Thota Sarala Devi – petitioners 1 and 6 herein; are shown as owners in the revenue records and therefore their names were shown in notification under Section 4(1) of the Act and in declaration under Section 6 of the Act, it is proposed to acquire Acs.30.22 for expansion of Autonagar. The names of other petitioners are not shown as owners in revenue records and therefore their names were not shown in the notification or

declaration. In accordance with delegation of powers under Section 3-A of the Act, District Collector is competent to issue notification and to enter upon the land. Therefore District Collector is also empowered to dispense with the enquiry under Section 5-A of the Act.

Learned Counsel for petitioners submits that District Collector cannot be deemed or considered to be 'appropriate Government' within the definition of the said term as contained in Section 3(ee) of the Act and therefore the impugned notification is without jurisdiction. He also submits that District Collector was conferred powers to acquire land for providing house-sites and no such power inheres in him to acquire land for expansion of Autonagar. **Per contra**, learned Assistant Government Pleader for Land Acquisition brought to the notice of this court the orders of the Government in G.O.Ms.235, Rev. (K), dated 10.3.1987, and submits that Section 3-A of the Act enables the Government to confer the power of the Government on District Collector and therefore the impugned notification is valid.

Section 3(ee) of the Act defines 'appropriate Government' means in relation to acquisition of land for the purposes of the Union, the Central Government, and, in relation to acquisition of land for any other purposes, the State Government. Section 3-A of the Act was inserted in the State of Andhra Pradesh by A.P. (Amendment) Act No.22 of 1976 with effect from 12.9.1975. The same reads as under.

> **3-A Delegation of functions:--** The State Government may, by notification in the Andhra Pradesh Gazette, direct that any power conferred or any duty imposed on them by this Act, shall in such circumstances and under such conditions, if any, as may be specified in the notification, be exercised or discharged by the District Collector.

In exercise of the said power, the Government issued G.O.Ms.No.235, dated 10.3.1987. A reading of Section 3-A of the Act and G.O.Ms.No.235 would show that in view of delegation of power, though the notification was issued by the District Collector, it is deemed to have been issued by the Government for acquiring the land for expansion of Autonagar. As per the delegation, it is competent for Collector to discharge all the duties imposed on the State Government under Sections 4, 5-A, 6 and 17(4) of the Act for the purpose of acquisition of land for establishing *inter alia* Industrial Estates, Industrial Development Areas and Industrial Housing Complexes and Autonagar is a specialized Industrial Estate and there is no infirmity in the impugned notification.

The writ petition is devoid of any merit and is accordingly dismissed. No costs.

(**V.V.S.RAO, J**)

December , 2007
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